

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MAE BATTAGLIA,

Plaintiff,

v.

DONALD R. LEVITT,

Defendant.

Case No.: C- 07-2083 PVT

**ORDER THAT CASE BE
REASSIGNED TO DISTRICT
COURT JUDGE AND REPORT AND
RECOMMENDATION THAT CASE
BE DISMISSED FOR FAILURE TO
RESPOND TO ORDER TO SHOW
CAUSE WHY CASE SHOULD NOT
BE DISMISSED FOR FAILURE TO
PROSECUTE**

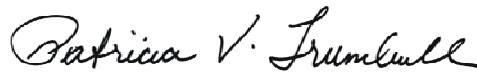
On April 13, 2007, Defendant Donald R. Levitt, appearing pro se, removed this action from state court. On April 27, 2007, Defendant Levitt filed a unilateral request to dismiss this action. The Court informed Plaintiff's counsel that a Defendant may not unilaterally dismiss an action and that some action was necessary by Plaintiff. Plaintiff has taken no action to either prosecute or dismiss this case. A Case Management Conference was scheduled on July 31, 2007, at which Plaintiff and Defendant both failed to appear. On August 13, 2007, this Court issued an Order to Show Cause why the case should not be dismissed for failure to prosecute and failure to appear at the Case Management Conference. The Order to Show Cause required a response no later than August 31, 2007. Plaintiff filed no response. Neither party has consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636 (c).

1 Therefore, IT IS HEREBY ORDERED this case shall be reassigned to a District Court
2 Judge.

3 IT IS HEREBY RECOMMENDED that this case be dismissed for failure to prosecute
4 based on Plaintiff's failure to file any documents with this court, Plaintiff's failure to appear at
5 the July 31, 2007 Case Management Conference and Plaintiff's failure to respond to the Order to
6 Show Cause.

7 Any party may serve and file specific written objections to this recommendation within
8 ten (10) working days after being served with a copy . See 28 U.S.C. § 636 (b)(1)(C);
9 Fed.R.Civ.P. 72 (b); Civil L.R. 72-3.

10 Dated: October 26, 2007



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12 PATRICIA V. TRUMBULL
United States Magistrate Judge